

(4:20CV448)

In the instant action, Plaintiff alleges that the Illinois Lawsuit was filed beyond the statute of limitations for fraud in Illinois and that Defendant Cory submitted a false affidavit and deliberately misled the court in the Illinois Lawsuit. *Id.* He further contends that Cory committed mail fraud under [18 U.S.C. § 1341](#) because Cory's allegedly false affidavit was mailed. *Id.* For relief, Plaintiff seeks to vacate the judgment entered in the Illinois Lawsuit and award him damages in an amount to be determined. *Id.*

II. Standard of Review

Pro se pleadings are liberally construed by the Court. [Boag v. MacDougall, 454 U.S. 364, 365 \(1982\)](#) (per curiam); [Haines v. Kerner, 404 U.S. 519, 520 \(1972\)](#). Notwithstanding, the district court is required under [28 U.S.C. § 1915\(e\)\(2\)\(B\)](#) to review all *in forma pauperis* complaints and to dismiss before service any such complaint that the Court determines is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. See [Hill v. Lappin, 630 F.3d 468, 470 \(6th Cir. 2010\)](#). Additionally, “[i]f the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.” [Fed. R. Civ. P. 12\(h\)\(3\)](#). While some latitude must be extended to *pro se* plaintiffs with respect to their pleadings, the Court is not required to conjure unpleaded facts or construct claims on behalf of a *pro se* plaintiff. See [Grinter v. Knight, 532 F.3d 567, 577 \(6th Cir. 2008\)](#) (citation omitted).

III. Discussion

Plaintiff lacks standing to assert a claim pursuant to [18 U.S.C. § 1341](#), and the Court lacks jurisdiction over Plaintiff's claims concerning the Illinois Lawsuit.

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The relief Plaintiff seeks with respect to the Illinois Lawsuit – vacating the judgment – effectively constitutes an appeal of that judgment and the Court lacks the authority to entertain such an appeal pursuant to the *Rooker-Feldman* doctrine. See [*D.C. Court of Appeals v. Feldman*, 460 U.S. 462, 483 \(1983\)](#); [*Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 415-16 \(1923\)](#). The *Rooker-Feldman* doctrine bars the Court from considering “cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments.” [*Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 \(2005\)](#). “If the source of the the injury is the state court decision, then the *Rooker-Feldman* doctrine would prevent the district court from asserting jurisdiction.” [*McCormick v. Braverman*, 451 F.3d 382, 393 \(6th Cir. 2006\)](#). In the case at bar, the source of Plaintiff’s injury is the state court’s default judgment. See [*Johnson v. Howe*, No. 3:19CV2088, 2019 WL 6683166, at *2 \(N.D. Ohio Dec. 6, 2019\)](#) (finding that the *Rooker-Feldman* doctrine applied when plaintiff was seeking to vacate a state court judgment). Federal appellate review of state court judgments can only occur in the United States Supreme Court. See [*Feldman*, 460 U.S. at 483](#); [*Rooker*, 263 U.S. at 415-16](#); see also [*Johnson v. Ohio Supreme Court*, 156 F. App’x 779, 781 \(6th Cir. 2005\)](#) (“Federal jurisdiction over appeals from state courts is vested exclusively in the United States Supreme Court by [28 U.S.C. § 1257](#).”). Accordingly, the Court lacks jurisdiction over Plaintiff’s claims concerning the Illinois Lawsuit and those claims are dismissed pursuant to [Fed. R. Civ. P. 12\(h\)\(3\)](#). See [*Howe*, 2019 WL 6683166, at *3](#) (dismissing claims barred by the *Rooker-Feldman* doctrine pursuant to [Rule 12\(h\)\(3\)](#) for lack of subject matter jurisdiction).

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To the extent that Plaintiff is asserting a mail fraud claim pursuant to [18 U.S.C. § 1341](#), he lacks standing to do so. Title 18 contains provisions of the United States criminal code. [Section 1341](#) does not provide for a private right of action. See [Ryan v. Ohio Edison Co.](#), 611 F.2d 1170, 1178-79 (6th Cir. 1979). As a private citizen, Plaintiff may not bring a civil claim to enforce the federal criminal code. See [Abner v. Gen. Motors](#), 103 F. App'x 563, 566 (6th Cir. 2004) (“Abner’s attempt to invoke [18 U.S.C. § 241](#) fails because that statute does not provide a civil action for damages, and Abner cannot initiate a federal criminal prosecution.”); [Saro v. Brown](#), 11 F. App'x 387, 388 (6th Cir. 2001) (“The district court ... properly concluded that Saro possessed no private right of action against Brown for alleged violations of [18 U.S.C. §§ 1341 & 1343](#).”). Because Plaintiff lacks standing to maintain a civil action under [18 U.S.C. § 1341](#), he fails to state a claim upon which relief may be granted and that claim is dismissed pursuant to [§ 1915\(e\)\(2\)\(B\)](#).

IV. Conclusion

For all of the foregoing reasons, this action is dismissed pursuant to [Fed. R. Civ. P. 12\(h\)\(3\)](#) and [28 U.S.C. § 1915\(e\)\(2\)\(B\)](#).

The Court certifies pursuant to [28 U.S.C. § 1915\(a\)\(3\)](#) that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

May 29, 2020
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge